

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PAUL SLOWEY,

Plaintiff,

v.

EQUIFAX INFORMATION SERVICES,
LLC; EQUIFAX CREDIT INFORMATION
SERVICES, INC.; EQUIFAX
COMMERCIAL SERVICES, INC.;
EXPERIAN INFORMATION
SOLUTIONS, INC.; and TRANS UNION,
LLC,

Defendants.

No. 3:09-CV-5162-BHS

DEFENDANT EXPERIAN
INFORMATION SOLUTIONS, INC.'S
ANSWER TO PLAINTIFF PAUL
SLOWEY'S COMPLAINT

ANSWER AND AFFIRMATIVE DEFENSES

NOW COMES defendant Experian Information Solutions, Inc. ("Experian"), by its undersigned counsel, and in answer to the Complaint of Plaintiff Paul Slowey ("Plaintiff"), states as follows:

1. In response to paragraph 1 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 and, on that basis, denies generally and specifically, each and every allegation contained therein.

EXPERIAN INFORMATION SOLUTIONS, INC.'S ANSWER TO
PLAINTIFF'S COMPLAINT - 1
Case No. (09-CV-5162-BHS)

Seattle-3514225.1 0099999-00001

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ATTORNEYS
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Telephone (206) 624-0900

2. In response to paragraph 2 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 and, on that basis, denies generally and specifically, each and every allegation contained therein.

3. In response to paragraph 3 of the Complaint, Experian admits that it is an Ohio corporation, and is qualified to do business in the State of Washington.

4. In response to paragraph 4 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 and, on that basis, denies generally and specifically, each and every allegation contained therein.

5. In response to paragraph 5 of the Complaint, Experian admits that it is a consumer reporting agency as defined by 15 U.S.C. § 1681a(f). As to the allegations in paragraph 5 of the Complaint that relate to the other defendants, Experian is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 5 of the Complaint.

6. In response to paragraph 6 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 and, on that basis, denies generally and specifically, each and every allegation contained therein.

7. In response to paragraph 7 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 and, on that basis, denies generally and specifically, each and every allegation contained therein.

8. In response to paragraph 8 of the Complaint, Experian is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 and, on that basis, denies generally and specifically, each and every allegation contained therein that relates to Experian. As to the allegations in paragraph 8 of the Complaint that relate to the other defendants, Experian is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, denies, generally and specifically, each and every remaining allegation of paragraph 8 of the Complaint.

1 9. In response to paragraph 9 of the Complaint, Experian denies, generally and
2 specifically, each and every allegation contained therein that relates to Experian. As to the
3 allegations in paragraph 9 of the Complaint that relate to the other defendants, Experian is
4 without knowledge or information sufficient to form a belief as to the truth of those allegations
5 and, on that basis, denies, generally and specifically, each and every remaining allegation of
6 paragraph 9 of the Complaint.

7 10. In response to paragraph 10 of the Complaint, Experian denies, generally and
8 specifically, each and every allegation contained therein that relates to Experian. As to the
9 allegations in paragraph 10 of the Complaint that relate to the other defendants, Experian is
10 without knowledge or information sufficient to form a belief as to the truth of those allegations
11 and, on that basis, denies, generally and specifically, each and every remaining allegation of
12 paragraph 10 of the Complaint.

13 11. In response to paragraph 11 of the Complaint, Experian denies, generally and
14 specifically, each and every allegation contained therein that relates to Experian. As to the
15 allegations in paragraph 11 of the Complaint that relate to the other defendants, Experian is
16 without knowledge or information sufficient to form a belief as to the truth of those allegations
17 and, on that basis, denies, generally and specifically, each and every remaining allegation of
18 paragraph 11 of the Complaint.

19 12. In response to paragraph 12 of the Complaint, Experian denies, generally and
20 specifically, each and every allegation contained therein that relates to Experian. As to the
21 allegations in paragraph 12 of the Complaint that relate to the other defendants, Experian is
22 without knowledge or information sufficient to form a belief as to the truth of those allegations
23 and, on that basis, denies, generally and specifically, each and every remaining allegation of
24 paragraph 12 of the Complaint.

25 13. In response to paragraph 13 of the Complaint, Experian denies, generally and
26 specifically, each and every allegation contained therein that relates to Experian. As to the

1 allegations in paragraph 13 of the Complaint that relate to the other defendants, Experian is
2 without knowledge or information sufficient to form a belief as to the truth of those allegations
3 and, on that basis, denies, generally and specifically, each and every remaining allegation of
4 paragraph 13 of the Complaint.

5 **AFFIRMATIVE DEFENSES**

6 **FIRST DEFENSE**

7 **(Failure to State a Claim)**

8 The Complaint herein, and each cause of action thereof, fails to set forth facts sufficient
9 to state a claim upon which relief may be granted against Experian and further fails to state facts
10 sufficient to entitle Plaintiff to the relief sought, or any other relief whatsoever from Experian.

11 **SECOND DEFENSE**

12 **(Immunity)**

13 Plaintiff's claims against Experian are barred by the qualified immunity of 15 U.S.C.
14 § 1681h(e).

15 **THIRD DEFENSE**

16 **(Truth/Accuracy of Information)**

17 Plaintiff's claims against Experian are barred because all information Experian
18 communicated to any third person regarding Plaintiff was true.

19 **FOURTH DEFENSE**

20 **(Indemnification)**

21 Experian is informed and believes and thereon alleges that any purported damages
22 allegedly suffered by Plaintiff are the result of the acts or omissions of third persons over whom
23 Experian had neither control nor responsibility.

24 **FIFTH DEFENSE**

25 **(Failure to Mitigate Damages)**

26 Plaintiff has failed to mitigate his damages.

1 **SIXTH DEFENSE**

2 **(Laches)**

3 The Complaint and each claim for relief therein is barred by laches.

4 **SEVENTH DEFENSE**

5 **(Contributory/Comparative Fault)**

6 Experian is informed and believes and thereon alleges that any alleged damages sustained
7 by Plaintiff were, at least in part, caused by the actions of Plaintiff and/or third parties and
8 resulted from Plaintiff's or third parties' own negligence which equaled or exceeded any alleged
9 negligence or wrongdoing by Experian.

10 **EIGHTH DEFENSE**

11 **(Estoppel)**

12 Any damages which Plaintiff may have suffered, which Experian continues to deny, were
13 the direct and proximate result of the conduct of Plaintiff. Therefore, Plaintiff is estopped and
14 barred from recovery of any damages.

15 **NINTH DEFENSE**

16 **(Statute of Limitations)**

17 Experian is informed and believes and thereon alleges that all claims for relief in the
18 Complaint herein are barred by the statute of limitations.

19 **TENTH DEFENSE**

20 **(Improper Request for Punitive Damages)**

21 Plaintiff's Complaint does not allege facts sufficient to rise to the level of conduct
22 required to recover punitive damages, and thus all requests for punitive damages are improper.

23 **ELEVENTH DEFENSE**

24 **(Unclean Hands)**

25 The Complaint, and each claim for relief therein that seeks equitable relief, is barred by
26 the doctrine of unclean hands.

TWELFTH DEFENSE

(Independent Intervening Cause)

Experian alleges upon information and belief that if Plaintiff sustained any of the injuries alleged in the Complaint, there was an intervening, superseding cause and/or causes leading to such alleged injuries and, as such, any action on the part of Experian was not a proximate cause of the alleged injuries.

WHEREFORE, Defendant Experian Information Solutions, Inc. prays as follows:

1. That Plaintiff takes nothing by virtue of the Complaint herein and that this action be dismissed in its entirety;
2. For costs of suit herein incurred; and
3. For such other and further relief as the Court may deem just and proper.

DATED: March 31, 2009.

STOEL RIVES, LLP

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Attorneys for Defendant Experian Information
Solutions, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2009, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification to the following participants:

- **George W Akers**
akers@mpba.com, reception@mpba.com
- **Kevin H. Breck**
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DATED: March 31, 2009.

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